



California Forestry Association

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November 2, 2007

Board of Forestry and Fire Protection
Attn: George Gentry
Executive Officer
board.public.comments@fire.ca.gov

Re: Forest Practice Rule Review Announcement

Dear Mr. Gentry,

The California Forestry Association appreciates the opportunity to submit the following list of Forest Practice Rules (Rules) for consideration by the Board's Policy Committee. The list is in no particular order of importance and includes timber harvest plan review procedures as well.

Section 929.1(a)(1) - Plan, and Emergency Notice Preparation [All Districts]

Archaeological record check.

This section could be amended to streamline and eliminate the necessity to conduct an archaeological records check under certain circumstances. Example: Currently, when land ownership has not changed since a previous records check, foresters perform a records check and simply get back information they put into the system.

Recommendation: waive records check when land ownership has not changed since a previous records check.

Technical Rule Addendum No. 2 – Past and Future Activities

Past and future projects included in the cumulative impacts assessments, mapping requirements. This is a costly exercise for landowners with unknown benefits to the public and review team agencies.

Recommendation: Review implementation of the mapping requirements to evaluate usefulness to review team and specific information necessary for review.

Technical Rule Addendum No. 2 – C. Biological Resources

Biological assessment areas will vary with the species being evaluated and its habitat. This section provides factors to consider in the evaluation of cumulative biological impacts.

Mitigation measures may be required that are disproportionate to impacts and without scientific support.

Section 919.9 – Northern Spotted Owl [Coast, Northern]

Requires information to be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl.

Recommendation: Review for effectiveness and necessity since many NSO standards have changed since rule was adopted.

Section 916.4 – Watercourse and Lake Protection [All Districts]

Subsection (c)(1) prescribes measures for mapping of temporary crossings of dry Class III watercourses. The Department interprets the phrase “clearly described” within the section as requiring the RPF to map or flag crossings even though the language found in section 1034(x)(7) clearly exempts temporary crossings of dry Class III watercourses from mapping.

Recommendation: Amend section 916.4 to be consistent with 1034(x)(7).

Section 919.4 – Non-listed Species [All Districts]

Where significant adverse impacts to non-listed species are identified, the RPF and Director shall incorporate feasible practices to reduce impacts as described in 14 CCR 898 (Feasibility Alternatives). CEQA defines feasible as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”

Section 898 requires the cumulative impacts assessment process “be guided by standards of practicality and reasonableness.”

Through application of the Fish and Game Code, mitigation measures are being required that are not consistent with limitations and definitions discuss above.

Section 895.1 – Definition of Late Succession Forest Stands

Means stands of dominant and predominant trees that meet the criteria of WHR class 5M, 5D, or 6 with an open, moderate or dense canopy closure classification, often with multiple canopy layers, and are at least 20 acres in size. Functional characteristics of late succession forests include large decadent trees, snags, and large down logs.

The Department may be relying on a “whitepaper” in determining LSF rather than the Rule.

Recommendation: clarify the source currently utilized by the Department in defining LSF.

Section 1052 – Emergency Notice

Before cutting or removing timber on an emergency basis, an RPF must submit a notice for Fuel Hazard Reduction emergency. Subsection (e) provides that timber operations shall not continue beyond 120 days after the Emergency Notice is accepted.

In many instances fires occur late in the year when 120 days is not a sufficient amount of time to harvest large areas. Coupled with the fact that operational rules are not waived for emergency and the delay in THP approval, the 120 days expires before the harvest can be completed.

Recommendation: Extend window of operation beyond 120 days.

Section 1037.5 – Review Teams to be Established

Interdisciplinary review teams shall be established by the Director to review plans and assist the Director in the evaluation of proposed timber operations and their impacts on the environment. Subsection (b) requires that “in evaluating a plan, the review team shall review any discussion of feasible alternatives or additional mitigation to the proposed timber operation as prescribed in 14 CCR 898. Plan reviewers must consider the economic as well as the environmental benefits of feasible alternatives. The review team shall serve in an advisory capacity to the Director in making recommendations on plans.”

Subsection (g)(3) requires “requests for additional information from the plan submitter during the review period shall be as prescribed by Section 1034 [contents of plan] . . . such requests shall be supported by reasons for the request . . . are reasonably necessary . . . guided by standards of practicality and reasonableness, recognizing the statutory review period of the FPA . . .”

Plan submitters are experiencing increased unsupported requests by review team agencies based on regulations not found in the Rules as prescribed by Section 1034.

Recommendation: Enforce THP review timelines found in sections 1037 *et al.*

Section 1039.1 – Effective Period of Plan

The effective period of the plan is the 3-year period following the date the plan is determined to be in conformance with the Rules. Section 4590(a)(2) provides that a notice to extend the plan “shall be provided to the department not sooner than 30 days, but at least 10 days, prior to the expiration date of the plan.

Recommendation: Request for THP extension should be allowed at any time within the third year of the plan, but prior to ten days of the expiration date.

Significant Adverse Impact Analysis

Plant surveys for nonlisted plants. Because there is no specific rule section requiring plant surveys, mitigation measures to prevent significant adverse impacts to species may be disproportionate to actual impact.

Plantation Thinning and Stocking Guidelines

Recommendation: review rules to allow for stocking establishment to meet a lower number of commercial species at year two, to reduce overall competition, cost to plant and thin while increasing carbon storage potential and ability to maintain carbon potential at lower tree per acre standards in plantation commercial thinning areas.

CFA and its members support your efforts to ensure effective implementation of rule language and to improve the Board’s rulemaking efforts. We look forward to working with you throughout the Rule review process.

Sincerely,



Michele Dias
VP, Legal and Environmental Affairs